

21 JUN 1979

MEMORANDUM FOR THE RECORD

STATINTL

FROM:

[REDACTED]
Project Engineer, Field Engineering Branch
Real Estate and Construction Division, OL

SUBJECT: Meeting with Mr. Foster Knight, Counsel,
Council of Environmental Quality

1. The undersigned met with Mr. Foster Knight, Counsel, Council of Environmental Quality (CEQ), on 31 May 1979 to deliver and discuss the Agency letter responding to Executive Order 12114 (NEPA Abroad) per instructions of Chief, Real Estate and Construction Division. Originally, it was planned to meet with both Mr. Nicholas Yost, General Counsel and Mr. Knight, CEQ focal point for the CIA on NEPA matters; however, Mr. Yost was on extended travel. Both are cleared and have previously met with C/RECD to discuss the role of NEPA overseas. They are familiar with a generalized concept of how the Agency is affiliated overseas for support in getting new construction, renovations or facilities operation projects [REDACTED]

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2. Mr. Knight initially reviewed an advanced xerox copy of the Agency letter requesting final CEQ review of the CIA internal procedures to implement the NEPA regulations. These procedures recently completed the 30 day statutory period which allowed for public commentary after being published in the Federal Register on 18 April 1979. Since no public commentary was received and since no internal Agency changes are contemplated, the procedures stand as published, subject to final review by CEQ. In his initial review, Mr. Knight indicated that only minor comments have been made to date, generally with regard to semantics relating to "NEPA" terminology. When asked when CEQ comments would be forthcoming, it was indicated the Agency procedure is queued for review among many other agencies who have not yet gone forward for initial publishing in the Federal Register and consequently may be delayed. However, the Agency would not be admonished for not publishing by 30 June due to delays caused by CEQ. Mr. Knight stated that the Central Intelligence Agency was the first Agency to have their procedure implementing NEPA published for public review.

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3. After reading the Agency letter of 31 May which responded to Executive Order 12114, Mr. Knight indicated that the response citing "Agency operations overseas were classified" and, in addition, that "Executive Order 12114 provides a statutory exemption for intelligence operations" was satisfactory (noting that this reply was accessible to the public through the Freedom of Information Act). However, he and Mr. Yost had discussed the matter of Agency operations overseas and were still concerned on possible impact on the environment which might constitute an embarrassment to the President of the United States. He cited the article in the New York Times of 27 May 1979 which described a nuclear powered spy device in the Himalayan Mountains which had been lost due to a storm and subsequent avalanche and was feared by the Indians as a potential threat by allowing radioactive runoff to pollute the sacred Ganges River. Agency involvement was alluded to in the above action. Particular emphasis was placed on potential damaging economic, as well as political, effects of such incidents in the future.

4. Mr. Knight was assured that in devices made by this Agency all state of the art precautions for life safety and environmental impact would be taken, not only for those handling the equipment, but also to preserve the integrity of the equipment in its surroundings. Mr. Knight stated that he and Mr. Yost would prefer that the Agency still have a procedure for overseas operations even if it were an internal use only and classified document. Protecting the environment under NEPA and Executive Order 12114, as well as shielding the President from the embarrassment of environment "incidents", appears to be an institutional obsession. The undersigned indicated to Mr. Knight that such a procedure would be taken under advisement by the Agency. RECD will prepare a position for review and consideration by the Director of Logistics.

5. As directed by the Executive Officer/OL, the letter from CEQ to the General Counsel, Department of Defense, dated 31 May 1979 which criticized the publication of the DoD procedures implement Executive Order 12114 (NEPA Abroad) was reviewed. As background, the DoD had elected to publish "final" procedures in the Federal Register without CEQ review or allowing for public review and commentary. CEQ is incensed and has involved the Department of Justice in reviewing this action. In addition, they have sent copies

of their letter to all major federal agencies. It would appear that the broad, far reaching worldwide activities of the Department of Defense post major environmental problems as viewed by CEQ which DoD would like to write off with exemptions, statutory classifications or unilateral exclusions. These questions will not quickly be resolved; however, in general should not be of concern to the Central Intelligence Agency. CIA activities are covered by exemptions within Executive Order 12114 for intelligence activities as well as being classified by statutory law. There appears to be no "ringers" in criticism of the DoD procedures which affect us.

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(20 June 79)

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Approved For Release 2002/01/08 : CIA-RDP85-00759R000100180004-3

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Notices

Federal Register

Vol. 44, No. 76

Wednesday, April 18, 1979

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

DEPARTMENT OF AGRICULTURE

Commodity Credit Corporation

Sales of Certain Commodities, Monthly Sales List (Period June 1, 1978 Through May 31, 1979); Nonfat Dry Milk and Butter

The CCC Monthly Sales List for the period June 1, 1978 through May 31, 1979, published at 43 FR 29819 (July 11, 1978), as amended at 43 FR 53737 (August 11, 1978), at 43 FR 46354 (October 6, 1978), at 43 FR 51693 (November 6, 1978), at 43 FR 58396 (December 14, 1978), at 44 FR 4748 (January 23, 1979), at 44 FR 8319 (February 9, 1979), at 44 FR 10091 (February 16, 1979) is further amended as follows:

1. Section 27, entitled "Nonfat Dry Milk—Unrestricted Use Sales (instore—Carlot Quantities)", Section 28, entitled "Butter—Unrestricted Use Sales (instore—Carlot Quantities)" are deleted.

2. Section 27 is added which reads as follows:

27. Nonfat Dry Milk—Unrestricted Use Sales (instore—Carlot Quantities).

1. Market price, but not less than 83 cents per pound for U.S. Extra Grade spray process in 50 pound bags. Sales are made under Announcement PV-DS-2.

2. Competitive offer basis: From time to time an invitation will be issued for competitive offers under Announcement PV-DS-1 to purchase nonfat dry milk which is 20 months old or older and/or has moisture content of 4.2 percent but not more than 5.0 percent.

3. Section 28 is added which reads as follows:

28. Butter—Unrestricted Use Sales (instore—Carlot Quantities).

1. U.S. Grade A or higher: Market price, but not less than 6.25 cents per pound over CCC's purchase price at each location in 60 to 68 pounds blocks. Sales are made under Announcement PV-DS-2.

2. U.S. Grade B: Market price, but not less than 4.25 cents per pound over CCC's purchase price for U.S. Grade A butter at each location in 60 to 68 pound blocks. Sales are made under Announcement PV-DS-2.

(Sec. 4, 62 Stat. 1070, as amended (15 U.S.C. 714b); sec. 407, 63 Stat. 1055, as amended (7 U.S.C. 1427))

Effective date: Item 1 2:30 p.m. (EST) March 30, 1979. Items 2 and 3 8:00 a.m. (EST) April 2, 1979.

Signed at Washington, D.C. on April 9, 1979.

Ray Fitzgerald,
Executive Vice President, Commodity Credit Corporation.

[Amdt. 8]
[FR Doc. 79-12010 Filed 4-17-79; 8:45 am]
BILLING CODE 3410-05-M

CENTRAL INTELLIGENCE AGENCY

National Environmental Policy Act; Revised Implementation Procedures

April 1, 1979.

AGENCY: Central Intelligence Agency.

ACTION: Proposed Agency implementing procedures.

SUMMARY: These proposed Agency procedures will supplement National Environmental Policy Act (NEPA) implementing procedures as required by the Act.

DATE: Comments should be received on or before May 18, 1979.

ADDRESS: Comments should be forwarded to the Director of Logistics, Central Intelligence Agency, Washington, D.C. 20205.

FOR FURTHER INFORMATION CONTACT: Director of logistics at the above address or telephone (703) 351-1100, ext. 8200.

Pursuant to the provisions of the National Environmental Policy Act of 1969, as amended, (Public Law 91-190 as amended), the Central Intelligence Agency has revised internal procedures to implement the provisions therein for the preparation of environmental impact statements for facility planning programs.

Since this instruction is for intra-Agency use, it will not be codified for publication as a section of the Code of Federal Regulations. The revised implementation procedures follow;

1. Purpose

This Logistics Instruction prescribes procedures for implementing the National Environmental Policy Act (Public Law 91-190 as amended) hereinafter referred to as NEPA within the Central Intelligence Agency.

2. Background

In carrying out national environmental policy and goals, Section 1500.1(a) of the NEPA regulations states that,

The National Environmental Policy Act (NEPA) is our basic national charter for protection of the environment. It establishes policy, sets goals (Section 101), and provides means (Section 102) for carrying out the policy. Section 102(2) contains "action-forcing" provisions to make sure that Federal agencies act according to the letter and spirit of the Act * * *

The NEPA regulations are designed to ensure that the data and analysis developed during the environmental review process is made available to Agency planners and decisionmakers at the time when it will be of most value to them in formulating, reviewing, and deciding upon proposals for agency action.

3. Implementing Procedures

a. NEPA Section 1500.6, *Agency Authority*, states that,

Each agency shall interpret the provisions of the Act as a supplement to its existing authority and as a mandate to view traditional policies and missions in the light of the Act's national environmental objectives. Agencies shall review their policies, procedures, and regulations accordingly and revise them as necessary to insure full compliance with the purposes and provisions of the Act. The phrase "to the fullest extent possible" in Section 102 means that each agency of the Federal Government shall comply with that section unless existing law applicable to the agency's operations expressly prohibits or makes compliance impossible.

(1) The Agency shall interpret the provisions of the Act as a supplement to its existing authority and as a mandate to address traditional activities in view of NEPA's national environmental objectives.

b. NEPA Section 1501.2, *Apply NEPA Early in the Process*, states that,

Agencies shall integrate the NEPA process with other planning at the earliest possible time to insure that planning and decisions reflect environmental values, to avoid delays

later in the process, and to head off potential conflicts.

(1) Types of actions initiated by private parties, state, and local agencies and other non-Governmental entities for which Agency involvement is reasonably foreseeable are as follows:

(a) When an environmental assessment or environmental impact statement is required to be prepared by another Federal agency for a proposed development, demolition, construction, changed use or rezoning of property located up to 500 yards beyond the Agency property line.

(b) When an environmental assessment or environmental impact statement is required to be prepared by another Federal Agency for any proposed activity with the potential for electrical interferences within three miles of an Agency installation.

(c) When an environmental assessment or environmental impact statement is required to be prepared by another Federal agency for proposed mining operations, quarrying, blasting, heavy construction, or tunneling within three miles of an Agency installation having an appreciable manmade seismic disturbance that may interfere with the Agency's operation of precise measuring equipment and the conduct of vibration sensitive research.

(2) This Instruction and the NEPA process form the basic policy for advising potential applicants of requirements for early consultation in cases where Agency involvement is reasonably foreseeable.

(3) The Director of Logistics has been designated the responsible officer for making the identifications and implementing the policies under subsections (1) and (2) above.

c. NEPA Section 1501.4, *Whether To Prepare an Environmental Impact Statement*, states that, "In determining whether to prepare an Environmental Impact Statement the Federal agency shall: Determine under its procedures supplementing these regulations (described in Section 1507.3) whether the proposal is one which: (1) normally requires an environmental impact statement, or (2) normally does not require an environmental impact statement or an environmental assessment (categorical exclusion)."

(1) Projects or actions for which environmental impact statements would normally be made include the following:

(a) Proposed construction of major new facilities by the Agency that have a significant impact on the environment.

(b) Agency acquisition or disposal of real property, by lease, assignment,

purchase, or otherwise, the operation of which have a significant impact on the environment.

(c) Major additions or renovations of existing Agency facilities that alter the basic functions of space and have a significant impact on the environment.

(d) Master plans for facilities and installations which involve a series of actions for long-range planning and improvement having a significant impact on the environment.

(2) Projects or actions for which environmental assessments or environmental impact statements are not normally required (categorical exclusions) include the following:

(a) Repair and improvements to existing facilities that do not alter the functions of the space.

(b) Additions to existing facilities when the present function of the facility is not changed and the addition has no appreciable effect on existing utilities, transportation, or clean air.

(c) New and replacement construction on existing installations or locations when new real estate is not required, existing transportation and utilities are not appreciably affected, no significant change in the skyline occurs when viewed from outside the installation property boundary, and no appreciable increase in noise or air pollution occurs.

(d) Changes in function of existing facilities when no appreciable change or effect to existing utilities, transportation, clean air, or noise occurs.

(e) Acquisition, use, or disposal of real property by lease assignment, purchase, or otherwise when no physical impact occurs to the environment.

(f) Actions that force displacement of personnel, affect the social or economic environment, but have no impact on the physical environment.

(g) New construction covered by an existing and approved Master Plan when the impact was previously assessed during Master Plan preparation and approval.

(3) Projects or actions which are not covered by paragraphs (1) and (2) above or which may be controversial shall have an environmental assessment prepared. This assessment will be the basis for a finding of "no significant impact" or a decision to prepare an environmental impact statement.

d. NEPA Section 1502.5, *Timing*: The preparation of the Environmental Impact Statement (EIS) shall be started as close to the time the Agency is developing a proposal so that the EIS can be included in any recommendation or final report on the proposal.

e. NEPA Section 1502.9, *Draft, Final, and Supplemental Statements*:

(1) Draft Impact Statements

After a determination has been made that the proposed action is a major Federal action significantly affecting the environment, a draft EIS shall be prepared. At the earliest possible stage of draft EIS preparation, Federal, State, and local agencies shall be contacted to obtain views, comments and information about potential impacts of the proposed action.

(2) Final Environmental Impact Statement

The final EIS must reflect all the site data; and substantive comments submitted by other Federal, State, and local officials, individuals, and groups; and Agency responses to above comments.

(3) Supplemental Statements

A supplemental EIS shall be prepared when the Agency makes substantial changes in the proposed action that are relevant to the environmental concerns. The supplement shall only address those new factors and the conclusions of the original EIS. The supplemental EIS shall be prepared, circulated and filed as an addendum to the original EIS.

f. NEPA Section 1505.1, *Agency Decisionmaking Procedures*:

(1) The Director of Logistics has been designated the Responsible Official, who shall:

(a) Determine if proposed Agency actions require environmental impact statements. (b) Ensure the fullest practicable provision of timely public information relative to Agency plans for actions of the type described in paragraph 3.c. which will impact on the human environment, and he shall obtain views and comments of interested parties before taking final administrative action.

(2) The Chief, Real Estate and Construction Division, will assist the Director of Logistics, as required, including the following:

(a) Provide technical competence for assessment studies of proposed projects and actions.

(b) Develop environmental impact statements when they are deemed necessary.

(c) Maintain a list of actions for which environmental statements are being prepared, revising the list as proposed actions are added or dropped.

(3) The Logistics and Procurement Law Division (Office of General Counsel) shall review and approve all environmental assessments, environmental impact statements, and supplements as well as other matters pertaining to environmental law.